

APPEAL NO. 040637  
FILED MAY 11, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on March 10, 2004. The hearing officer determined that the respondent (claimant) is entitled to supplemental income benefits (SIBs) for the sixth quarter. The appellant (carrier) appeals this determination. The appeal file contains no response from the claimant.

DECISION

Affirmed.

Section 408.142 provides that an employee continues to be entitled to SIBs after the first compensable quarter if the employee: (1) has not returned to work or has earned less than 80% of the employee's average weekly wage as a direct result of the impairment; and (2) has in good faith sought employment commensurate with his ability to work. The carrier asserts that the hearing officer erred in determining that the claimant satisfied both of the aforementioned requirements for SIBs entitlement. We have stated that a finding of "direct result" is sufficiently supported by evidence that an injured employee sustained an injury with lasting effects and could not reasonably perform the type of work being done at the time of the injury. To meet the direct result requirement, one only need prove that the unemployment or underemployment was a direct result of the compensable injury. See Texas Workers' Compensation Commission Appeal No. 001786, decided September 13, 2000. Upon review of the record, we cannot agree that the hearing officer's direct result determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102(e) (Rule 130.102(e)), applicable in this case, provides that an injured employee who has not returned to work and is able to return to work in any capacity shall look for employment commensurate with his or her ability to work every week of the qualifying period and document his or her job search efforts. The rule goes on to list information to be considered in determining whether the injured employee has made a good faith effort, including, among other things, the number of jobs applied for, applications which document the job search, the amount of time spent in attempting to find employment, and any job search plan. Whether the claimant's job search efforts were made in good faith was essentially a factual question for the hearing officer to resolve. The hearing officer was persuaded by the evidence that the claimant satisfied the good faith requirement and that he is entitled to SIBs for the sixth quarter. We perceive no error in the hearing officer's resolution of the SIBs issue. Cain, *supra*.

The carrier contends that the hearing officer's statement that the claimant was in contact with the Texas Rehabilitation Commission during the qualifying period in question is irrelevant. We disagree. Rule 130.102(e)(4) states that cooperation with the TRC is a factor to be considered in determining whether the claimant has made a good faith effort to obtain employment.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **AMERICAN MOTORISTS INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY  
800 BRAZOS, COMMODORE 1, SUITE 750  
AUSTIN, TEXAS 78701.**

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Chris Cowan  
Appeals Judge

CONCUR:

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Elaine M. Chaney  
Appeals Judge

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Veronica L. Ruberto  
Appeals Judge